



Meeting Date: October 18, 2023

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-67-2023

Subject: Application for Minor Variance (File No. A-21/2023)

Recommendation:

THAT Minor Variance Application A-21/2023, filed by Sifton Properties Limited for relief from the Comprehensive Zoning By-law in order to establish a minimum exterior side yard setback of 4.0 m (13.1 ft), whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum exterior side yard setback of 6.0 m (19.7 ft), for properties legally described as Lot 8 and Lot 11 of 33M-836, in the Municipality of Middlesex Centre, County of Middlesex, be GRANTED, subject to the following conditions:

THAT an attached garage maintain a minimum exterior side yard setback of 6.0 m (19.7 ft) where a driveway is proposed in the exterior side yard for Lot 8 and 11;

AND THAT the reasons for granting Minor Variance Application A-21/2023:

- The request complies with the general intent and purpose of Middlesex Centre's Official Plan;
- The request complies with the general intent and purpose of Middlesex Centre's Comprehensive Zoning By-law;
- The request is minor in nature; and
- The request represents appropriate development on the subject property.

Purpose:

The purpose of this report is to provide the Committee of Adjustment with a recommendation regarding a minor variance for two lots located on the north side of Timberwalk Trail in Phase 5 of the Timberwalk subdivision in Ilderton.

A location map is included as Attachment 1.

Background:

The purpose and effect of the Application for Minor Variance is to seek relief from the Middlesex Centre Comprehensive Zoning By-law 2005-005 as it relates to the minimum exterior side yard setback requirement where the exterior side yard is adjacent to a front yard of an abutting lot in the “Urban Residential First Density exception 25 (UR1-25)” Zone. The applicant is requesting a minimum exterior side yard setback of 4.0 m (13.1 ft) for Lots 8 and 11 only, whereas the Zoning By-law requires a minimum side yard setback of 6.0 m (19.7 ft). The effect of the proposal is to increase the building envelope to provide greater flexibility in building plans and placement of a future dwelling.

The subject lands are located in Ilderton and surrounded by existing and future low density residential development, and a woodlot and some medium density residential development within proximity to the subject Lots. Lands to the north are currently vacant but designated from medium and low density residential uses. The Lots are accessed by an extension of Timberwalk Trail off Songbird Lane.

The lands are identified as part of the Ilderton Settlement Area in the Middlesex County Official Plan, designated ‘Residential’ in the Middlesex Centre Official Plan, and zoned “Urban Residential First Density exception 25 (UR1-25)” in the Middlesex Centre Comprehensive Zoning By-law.

The proposed reductions are summarized below:

Requirements	Relief Requested
Minimum exterior side setback is 6.0 m (19.7 ft)	Minimum exterior side yard setback of 4.0 m (13.1 ft) for Lots 8 and 11

Consultation:

Notice of the applications have been circulated to agencies, as well as property owners in accordance to the requirements of the Planning Act.

Public Comments:

At the time of writing the subject report, no comments or concerns had been received from the public regarding this proposal.

Agency Comments:

The following comments were received at the time of writing this report;

The Municipality’s Chief Building Official has reviewed the application and has indicated no objection to the proposal.

The Municipality’s Fire Chief has reviewed the application and has indicated no objection to the proposal.

The Municipality's Director of Public Works and Engineering has reviewed the application and requested that a condition be added to ensure driveways must be situated off of the lot frontage since a 4 m setback on the exterior side will not allow sufficient space to park a car in the driveway within the limits of the lot.

Analysis:

Section 45(1) of the Planning Act authorizes the Committee of Adjustment to grant relief from the Comprehensive Zoning By-law requirements if a request is deemed to be desirable for the appropriate development or use of the land, building, or structure; the requested relief is minor; and the general intent and purpose of both the Official Plan and Comprehensive Zoning By-law are maintained.

In addition to the above, Section 10.9 of Middlesex Centre's Official Plan must also be satisfied in order for a minor variance to be granted. Section 10.9 provides the following policies with respect to minor variance applications:

- I. The proposal is compatible with the surrounding neighbourhood;
- II. The proposal is in keeping with the general intent and purpose of the Comprehensive Zoning By-law;
- III. The proposal is in keeping with the general intent and purpose of the Official Plan;
- IV. The proposal is appropriate and desirable use of land; and
- V. The variance is generally minor in nature. The interpretation of what is minor is not necessarily based on the extent by which the by-law is varied. Rather, it is based on whether the effect of the variance could be considered minor.
- VI. There are valid reasons as to why the by-law cannot or should not be complied with, and that reasonable alternatives that comply with the by-law have been considered.

As previously noted, the subject land is designated 'Settlement Area' according to the County of Middlesex and 'Residential' in the Middlesex Centre Official Plan. The lots are zoned "Urban Residential First Density exception 25 (UR1-25) Zone' by Middlesex Centre's Comprehensive Zoning By-law. The applicant is requesting the minor variance to increase the building envelope on each of the lots to accommodate a dwelling similar in size and consistent to proposed development in the neighbourhood.

Planning has reviewed the proposed minor variances in relation to the four Planning Act tests as listed above. The analysis has been broken up below which takes into consideration each variance against the four tests.

Is the variance considered minor in nature? Yes, subject to conditions

The interpretation of what is minor is not necessarily based on the extent to which the zoning by-law is varied. Rather it is based on whether the impact of the variance can be considered minor. In review of the proposed minor variance, Planning Staff is of the opinion that the proposal is considered minor in nature since the reduction will still provide

sufficient setback from the right-of-way and will not significantly reduce the visibility of pedestrians or vehicles. Staff identified that a garage located in the side yard may result in a driveway that is too short to accommodate a typical vehicle. However, this can be addressed by placing a condition that would require a 6 m setback to a garage with driveway in the exterior side yard. Additionally, Lots 8 and 11 are corner lots and located on a crescent-shaped street with few homes in the immediate area. Therefore, Planning Staff do not anticipate that the reduction of the exterior side yard setback will have negative impacts on neighbouring properties or access to nearby properties.

Is the variance an appropriate use of the land? Yes

The development of a single detached dwelling is consistent with the character of the area and planned function of the site which includes similar residential uses within the same development. Therefore, the proposed variance would represent an appropriate use of the land.

Does the variance maintain the intent of the Official Plan? Yes

The intent of the Official Plan through the Residential designation is to provide for a variety of dwelling types in the area. The requested exterior side yard setback continues to support the development of a residential use, and provides flexibility for building design and massing. Therefore planning staff find that the subject proposal would maintain the general intent and purpose of the Municipal Official Plan.

Does the variance maintain the intent of the Zoning By-law? Yes

The general intent and purpose of the Comprehensive Zoning By-law as it relates to the subject request is to ensure that there is sufficient separation between the proposed dwelling and roadway, to provide amenity space, and ensure sight-lines are maintained at intersections.

The proposed reduction in concurrence with other regulations of the Zoning By-law, continue to provide sufficient amenity area on each lot, and adequate separation between the dwelling unit and right-of-way. Further, the reduction will not interfere with the required daylight triangle at the corner of the roadway or significantly impede sight visibility. As such, Planning Staff is satisfied that the requested relief would maintain the general intent and purpose of the Comprehensive Zoning By-law.

Given the above, Planning Staff is satisfied that the proposed minor variance can be supported. Planning Staff recommend that the subject application be approved, as the proposal meets the four test of a minor variance of the Planning Act.

This opinion is provided prior to the public meeting and without the benefit of potentially receiving all comments from agencies or members of the public. Should new information arise regarding this proposal prior to or at the public meeting, the committee is advised to take such information into account when considering the application.

Financial Implications:

None.

Strategic Plan:

This matter aligns with following strategic priorities:

- Balanced Growth

Attachments:

Attachment 1 – Location Map